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## City of San Marcos

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## NEWS

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### U.S. Supreme Court Junks Planet K Petition

The U.S. Supreme Court has rejected a petition for review of the Planet K court case that sought to overturn a San Marcos ordinance and state law banning junked vehicles from being in public view.

The case was brought by owner Michael Kleinman and local artists after Planet K was cited in November 2007 for violating the City of San Marcos junk vehicle ordinance. The store had placed a junked car filled with cactus plants at its location at 910 North I-35.

In a January 2008 trial, Municipal Court of Record Judge John Burke ordered the store's owners to remove the vehicle.

Their appeals of that order resulted in further rulings in favor of the City of San Marcos in the United States District Court in Austin and at the United States Court of Appeals for the Fifth Circuit in New Orleans.

In March, 2010, City Marshal Ken Bell sent a letter to the owners giving them 30 days to remove the vehicle. Instead, owners attempted to cover the irregularly shaped vehicle/planter. On April 23, 2010, the city had the junked car removed to a junkyard in San Marcos. Later that same day, Planet K arranged to have the junked vehicle moved to one of its stores in Austin.

Then they petitioned the United States Supreme Court to review the case. Monday, the U.S. Supreme Court denied the petition for review.

"This final victory supports a citywide effort by the marshal's office to eliminate junked vehicles as a threat to public health and safety," said Laurie Moyer, Interim City Manager. "The significance of this case is the strong message it sends to junk vehicle owners and property owners—and that is you can't thwart the City's enforcement efforts by painting a slogan or symbols on the side of a smashed car and claim first amendment rights. It is not permissible to use a junked vehicle as a billboard, commercial sign, advertising gimmick, political sign or a canvas for public artwork."

Under city and state law, junked vehicles are subject to removal for destruction if not completely enclosed in a building or screened by means of a heavy duty contour-fitting cover so that no part of the vehicle except the tires is exposed to public view.